

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.



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Increased access to Chicago O'Hare Airport  
under 49 U.S.C. 41714(a)(2)

**Docket OST-96-1911**

**ORDER ESTABLISHING PROCEDURES FOR APPLICATIONS FOR  
EXEMPTIONS FROM THE SLOT RULES TO PROVIDE INCREASED  
SERVICE BETWEEN NONHUB AIRPORTS AND O'HARE AIRPORT**

**SUMMARY**

By this order we are requesting proposals from carriers interested in providing air service between small communities (nonhubs) and Chicago O'Hare Airport.

**BACKGROUND**

On August 23, 1994, Congress enacted the Federal Aviation Administration Authorization Act of 1994, which, among other things, created exemption authority to make take-off and landing slots at high-density airports available to air carriers for the provision of basic Essential Air Service (EAS) at eligible communities (P.L. 103-305, section 206). Under the "High Density Rule" (14 CFR Part 93), four airports are designated as slot-controlled airports. Those airports are Chicago's O'Hare International, New York's LaGuardia and John F. Kennedy International, and Washington's National Airport.

Under the EAS slot provisions of that law, if an eligible community's basic essential air service has been determined to include service to a hub with a high-density airport, the Department is directed to ensure that an air carrier has sufficient operational authority at the high-density airport to provide the required service, and that flights be provided at reasonable times and meet the needs of connecting passengers.

On September 30, 1996, President Clinton signed into law the Department's FY 1997 appropriation. Among other things, that bill established a funding level of \$25.9 million for the essential air service program and also contained report language expressing Congress's desire that the Department enable increased access to O'Hare Airport for small- and medium-sized communities. The conference report directs the Secretary to make the fullest possible use of existing exemption powers "...for example, by combining essential air service slots with the pool of slots reserved at O'Hare Airport for military operations in a way that would increase the Department's flexibility with regard to the time of day assigned

to essential air service slots. Changes in the time of day essential air service slots are operated can significantly affect subsidy costs. The Secretary is also directed to use exemption authority to improve service to nonhub airports where significant improvements can be achieved. This directive is limited to O'Hare International Airport and aircraft carrying less than 60 passengers." (See Appendix A for the full slot text contained in the conference report.)

Thus, the report language contemplated that the slot exemptions are to be used only for communities that are categorized as nonhub airports by the Federal Aviation Administration, i. e., not for FAA-designated large, medium or small hubs<sup>1</sup>. The bill also limits the use of the exemptions to service provided with 60-seat or smaller aircraft. In addition, there is an expectation in the bill that some exemptions may be used to reduce or eliminate the need for subsidy at some currently subsidized communities.

The number of slot exemptions that the Department may be able to grant will be relatively small. There are three separate and distinct "pools" of slots. By far the largest pool is called "air carrier slots". Those are slots to be used by major airlines using large jet equipment. A much smaller pool is set aside for use by commuter airlines and is thus called "commuter slots". The third group is called simply "other" and is comprised mostly of slots reserved for general aviation and other nonscheduled flights, including military. The entire "other" pool consists of ten slots per hour, most of which are used by general aviation. The National Guard has been using a few slots a day from the "other" pool of slots and it is transferring its Chicago operations to the southern part of the state near St. Louis. Its use of slots tends not to have been on a consistent, day-to-day basis but rather ad hoc.

Thus, to the extent that the Department's grant of O'Hare slot exemptions is expected to derive from the declining use of slots by military operations, the total number will be quite limited. The number of requests may well exceed the number we will be able to grant, and we may receive multiple applications to serve the same city. To resolve which proposals to grant, we will consider communities' relative needs, balancing traffic-generating potential, other air service at the community, and isolation from other air service; we will also consider the number of communities that would be benefitted by the slot exemptions, aircraft type including noise considerations, the forecast number of passengers that would use the service, community views, the economic viability of the proposals, subsidy savings, and proposed start-up dates. In addition, we must consider the effects of granting any exemptions on the overall operations at O'Hare. The law includes a provision that slot exemptions not cause any significant operational delays at the O'Hare Airport. We also must be sensitive to noise impacts. Therefore, we will give priority consideration to applications that contemplate operations spread out throughout the day rather than bunched at morning and evening hours and to those carriers that are flexible in working with the Department to tailor schedules that will not cause significant delays while still providing good service to the community. Finally, before making a final decision on these slot issues, we will fully consult with the City of Chicago-Department of Aviation (City of Chicago). Interested carriers should file applications within 20 days and include specific information to help us in making carrier selection decisions. In addition, all applications must be served on the affected communities, the other applicants and the City of Chicago. Communities should submit any relevant comments within ten days after the due date for proposals to be submitted.

## REQUEST FOR PROPOSALS

For carriers applying for exemption authority to provide EAS at any communities, whether subsidized or not, we expect applications to contain at least the following information:

1. a proposed operating schedule including all points to be served on the itinerary, aircraft type, frequency, and proposed arrival/departure times;
2. traffic, revenue, and expense forecasts for the first 12 months of service;

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<sup>1</sup> Hub classification is based on total enplaned revenue passengers. Nonhubs represent less than 0.05 percent of total enplaned passengers in the United States, small hubs--0.05-0.249, medium hubs--0.25-0.999, and large hubs--1.00 or more.

3. a proposed start-up date;
4. for the carrier applicant's system, its most recent 12-month financial statement; and
5. a service list of civic officials receiving the application<sup>2</sup>.

Applications in response to this order should be filed no later than 20 days after the issue date of this order, and must be served simultaneously on all affected communities and the City of Chicago. Community comments should be filed no later than ten days after the due date for proposals to be submitted.

This order is issued under authority delegated in 49 CFR 1.56(i).

**ACCORDINGLY,**

1. The Department requests carriers who desire exemptions from the "High Density Rule" in order to provide air service to Chicago's O'Hare Airport to file applications within 20 days of the issue date of this order. Applications must include the data required in the text of this order. An original and five copies should be sent to: EAS and Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590;
2. The Department directs carriers filing an application for an exemption from the "High Density Rule" to serve a copy of the application on the mayor and airport manager of each affected community and the City of Chicago-Department of Aviation;
3. The Department directs communities that have comments on an application for an exemption from the "High Density Rule" to file such comments no later than ten days after the due date for carriers to file applications. Comments should be filed with the EAS and Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590;
4. Applications and comments that are sent by facsimile transmission and that are received by the deadline will be accepted so long as an original and five copies are received by 5:00 P.M. the following business day; the facsimile number is (202) 366-7638; and
5. The Department will serve a copy of this order on the City of Chicago-Department of Aviation and the parties listed in Appendix B to this order.

By:

**CHARLES A. HUNNICUTT**

Assistant Secretary for  
Aviation and International Affairs

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<sup>2</sup> We will contact all applicants after the 20-day period and direct them to serve their exemption requests on all the other applicants.

<sup>3</sup> Carriers are not precluded from filing applications after the 20-day due date. However, to the extent that the Department may have to choose between or among applicants, we will give first priority to those that are within that timeframe.

(SEAL)

**VERBATIM EXCERPT FROM THE CONFERENCE REPORT  
IN P.L. 104-205 ATTACHED TO THE  
DEPARTMENT'S FY 1997 APPROPRIATIONS**

*Slot access.* Under 49 U.S.C. 41714(a)(2), the Secretary is given authority to provide for additional essential air service at slot-controlled airports by exemption, "unless such an exemption would significantly increase operational delays." The recent decision of the U.S. Court of Appeals for the District of Columbia in *Mesa Air Group v. Department of Transportation* (No. 98-1017) has limited the power of the Secretary to compel commuter airlines to provide essential air service at reduced levels without revising their subsidy contracts.

In some cases, however, it may be possible to maintain and improve essential air services without significantly increasing funding requirements by providing for additional exemptions under the Secretary's existing powers and to improve service to nonhub cities as well. Where that is the case, the Secretary is directed to make the fullest possible use of those powers. In order to minimize the risk that such exemptions would increase operational delays, the Secretary should consider various options, including allowing changes in slot timing which do not increase the total number of slots. Such a step could be facilitated, for example, by combining essential air service slots with the pool of slots reserved at O'Hare Airport for military operations in a way that would increase the Department's flexibility with regard to the time of day assigned to essential air service slots. Changes in the time of day essential air service flights are operated can significantly affect subsidy costs. The Secretary is also directed to use exemption authority to improve service to nonhub airports where significant improvements can be achieved. This directive is limited to O'Hare International Airport and aircraft carrying less than 60 passengers.